

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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JAIME HUGHES, MARY CORONADO,
AUDREY MILLS, VIRGINIA
CARDOZA, KAREN DELUCCHI,
JOLENE GIBSON, BARBARA
HEDRICK, SUZANNE HENNING, WILL
JOHNSON, LINDA MAGER, MARIA
MACIAS, CARL MORROW, CANDICE
PRICE, VIRGINIA RUIZ, CARMEN
SIMMONS, TREASA TREDWELL,
MARINA TORRES, SHEILA WALL,
LORIE WEISS and KATHI LYNN
CORONADO,

Plaintiffs,

v.

CITY OF STOCKTON and DOES 1
through 100, in their
individual capacities,

Defendants.

NO. CIV. S 03-0166 MCE DAD

ORDER

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On June 15, 2005, Defendant City of Stockton ("City") filed
an Ex Parte Application seeking permission to depose former
Stockton City Manager Dwane Milnes on June 23 or 24, 2005, and to
use that deposition in lieu of Mr. Milnes' testimony at the trial

1 in this matter, presently set to commence on June 29, 2005.
2 According to Mr. Milnes' declaration, he will be out of the
3 country on a prepaid trip from June 27, 2005 until July 10, 2005
4 and consequently will be unable to testify until July 11, 2004,
5 or thereafter. As an alternative to allowing the use of Mr.
6 Milnes' deposition testimony at trial, the City asks for an order
7 ensuring that the liability phase of the trial in this matter is
8 scheduled to allow Mr. Milnes' appearance as a witness for the
9 City.

10 The City has failed to demonstrate good cause for the
11 requested relief. The currently scheduled trial date in this
12 matter has been set since December of 2004. No evidence has been
13 presented that Mr. Milnes made his travel plans before that time
14 without knowledge of the currently pending trial date. In
15 addition, the City has not shown that the issue of Mr. Milnes'
16 potential inability to testify could not have been raised much
17 earlier, rather than on the virtual eve of trial (with the City
18 proposing deposition dates less than a week before trial is set
19 to begin). Moreover, this trial is scheduled to last fourteen
20 (14) court days. Only six days of trial will have transpired
21 before Mr. Milnes returns and is able to testify, and there has
22 been no showing that the liability phase of trial is reasonably
23 likely to conclude prior to that time.

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1 The City's Ex Parte Application to to depose former Stockton
2 City Manager Dwane Milnes and use that testimony in lieu of
3 testimony at trial is DENIED.

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5 IT IS SO ORDERED.

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7 DATED: June 16, 2005

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11 MORRISON C. ENGLAND, JR.
12 UNITED STATES DISTRICT JUDGE
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